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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,676	09/28/2001	Brendan Traw	42390P11771	4988

8791 7590 02/21/2008
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EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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02/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/966,676	Applicant(s) TRAW ET AL.	
	Examiner Son P. Huynh	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,7-12,18-23 and 29-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,7-12,18-23 and 29-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/3/08, 12/3/07, 9/18/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The declaration filed on 12/9/2007 under 37 CFR 1.131 has been considered but is ineffective to overcome the Connelly reference.

The evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date of the Connelly reference. For example, the declaration fails to show support limitations as claimed such as "rating previously broadcasted data files based on meta data associated with the rating table includes at least a rating value and a rating type for broadcasted data files, wherein the rating value is the combination of a relevance value and a believability factor, the relevance value rating the currently broadcasted data files in response to the content rating table...displaying the selected best currently broadcasted or stored data file automatically on a personalized channel on a display device" in independent claims.

Response to Arguments

2. Applicant's arguments filed 12/10/2007 have been fully considered but the argument regarding to Connelly's reference is not persuasive.

Applicant argues Connelly does not constitute prior art because Applicant's submission of Declaration under 1.131 (page 7). This argument is respectfully traversed. The evidence submitted in the Declaration is insufficient to establish a reduction to practice of the invention as discussed above. Therefore, Connelly constitute prior art.

Applicant further argues Connelly does not suggest or teach "displaying the selected best currently broadcasted or stored data file automatically on a personalized channel on the display device (page 7, last paragraph). This argument is respectfully traversed. Connelly discloses broadcast schedule queue comprises an ordered list of content identifiers corresponding to piece of content for the current set of meta-data, wherein the content identifiers are ordered from top to bottom list based on the relative demand for their corresponding piece of content (col. 10, lines 36-67, col. 25, lines 16-28, col. 26, lines 1-24). The piece of content associated with the content identifiers on the ordered list may be broadcast using a dedicated broadcast channel (see include, but are not limited to, col. 27, lines 50-53) and the viewer views or watches the piece of content, which is already filtered or ordered or ranked based on viewer feedback or rating (see include, but are not limited to, col. 12, lines 33-47). Thus, the stored data file or broadcasted content (e.g., content that is automatically filtered/ranked based on viewer feedback demand, rating) must be displayed on the display device so that viewer can view or watch the content, where "personalized channel" is broadly interpreted as dedicated channel or channel that provide the filtered content so the viewer can view.

Applicant's argument regarding to alternative 103 rejection using Labeeb reference is persuasive and the alternative rejection is withdrawn.

Claims 2-6, 13-17, and 24-28 have been canceled.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 7-12, 18-23, 29-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Connelly (US 7,020,893).

Regarding claims 1, 12, 23, Connelly discloses:

receiving meta-data broadcast by a server system, the meta-data including description of a plurality of data files currently being broadcasted or to be broadcasted by the server system (see include, but are not limited to, figures 1B, 2, 3, col. 6, line 54- col. 7, line 49);

rating previously broadcasted data files based on meta-data associated with the broadcasted data files, respectively, in response to a content rating table, wherein the content rating table includes at least a rating value and a rating type for broadcasted data files, wherein the rating value is the combination of a relevance value and a believability factor, the relevance value corresponding to a likelihood that a user will want to watch the broadcasted data file based on the description of the meta-data and the believability factor is a weighting factor corresponding to the accuracy of past relevance value determinations, and the rating type indicates whether the rating value was generated explicitly based upon prior explicit input from the user or implicitly generated without prior explicit input from the user (see include, but are not limited to, figures 3, 5, 10-15c, 18);

storing previously broadcasted data files meeting a pre-determined ranking threshold in a storage device to create a plurality of stored data files (see include, but are not limited to, col. 7, lines 4-29, col. 12, lines 1-65);

comparing the rankings of the plurality of stored data files to determine a best stored data file;

rating currently broadcasted data files in response to the content rating table;

comparing the ranking of currently broadcasted data files to determine a best currently broadcasted data files;

selecting the best currently broadcasted data file or best stored data file with the highest ranking; and

displaying the selected best currently broadcasted or stored data file automatically on a personalized channel on a display device (see include, but are not limited to, col. 6, line 55-col. 7, line 28, col. 9, line 20-50, col. 10, line 36-col. 11, line 10, col. 12, lines 1-65, col. 20, lines 25-27, col. 21, lines 20-40, col. 25, lines 15-28, figures 14-15c).

Regarding claims 7, 18, 29, Connelly further discloses a currently broadcasted data file is an immediate viewing data file and is automatically selected (e.g., live TV show or current broadcast data file and automatically selected based on meta-data – see include, but are not limited to, col. 7, lines 1-29, col. 12, lines 1-32).

Regarding claims 8, 19, 30, Connelly further discloses if an immediately viewing data file is not selected then a stored file is selected (interpreted as previously recorded/cached data file is subsequently “on demand “ viewing – see include, but are not limited to, col. 7, lines 20-25, col. 12, lines 40-47).

Regarding claims 9, 20, 31, Connelly further discloses if neither an immediate viewing data file or a stored data file is selected, then the currently broadcasted data file with the highest ranking is selected (e.g., selecting highest rating/ranking piece – see include, but are not limited to, col. 10, line 50-col. 11, line 10, col. 11, lines 29-35).

Regarding claims 10, 21, 32, Connelly further discloses displaying the selected data file on a personalized channel on a display device (interpreted as displaying the selected data file/piece on a select channel on a display device at client – col. 7, lines 23-25, col. 12, lines 32-47).

Regarding claims 11, 22, Connelly further discloses the plurality of data files comprises at least one of video information, graphical information, audio information, multi media information, or textual information (see include, but are not limited to, col. 4, lines 45-57).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cannon (US 6,029,176) discloses manipulating and analyzing data using a computer system having a database mining engine reside in memory.

Payton (US 5,790,935) discloses virtual on demand digital information delivery system and method.

Thomas et al. (US 2005/0149964) discloses program guide system with monitoring of advertisement usage and user activities.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Son P. Huynh

February 12, 2008



CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
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